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6 Attorneys for Non-Parties
Palm, Inc. and Edward Colligan
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 IN RE HIGH-TECH EMPLOYEE
12 ANTITRUST LITIGATION

Case No. 11-CV-2509-LHK

**DECLARATION OF EDWARD T.
COLLIGAN**

13
14
15 I, Edward T. Colligan, declare as follows:

16 1. I am the former President and Chief Executive Officer of Palm, Inc. ("Palm"). I
17 have personal knowledge of the facts set forth in this declaration and if called upon to do so I
18 could and would competently testify to such matters.

19 2. I served as President of Palm from June 12, 2004 to June 12, 2009. I served as the
20 Chief Executive Officer of Palm from May 16, 2005 to June 12, 2009. From October 2003 to
21 June 2004, I served as Senior Vice President and General Manager of the Wireless Business Unit
22 of Palm. Before joining Palm in October 2003, I served as co-founder, President, and Chief
23 Executive Officer of Handspring, Inc. ("Handspring"). Between October 1998 and July 2001, I
24 served as Senior Vice President of marketing and sales at Handspring. From January 1993 to
25 September 1998, I was the Senior Vice President of marketing at Palm. From 1986 to 1993, I
26 worked for Radius, Inc., serving as its Vice President of Strategic and Product Marketing. I have
27 a BA in Political Science from the University of Oregon.

28 3. Part of my job at Palm was to build and retain a team of highly skilled employees

1 with technical expertise ("high tech employees").

2 4. During my tenure at Palm, Apple, Inc. ("Apple") hired Palm employees, including
3 high tech employees, and Palm hired Apple employees, including high tech employees.

4 5. During my tenure at Palm, Palm did not have any actual or contemplated joint
5 ventures with Apple. Both before and after 2007, Apple and Palm were competitors in the mobile
6 phone market.

7 6. In August 2007, I received a call from Steve Jobs, the Chief Executive Officer of
8 Apple. In the months before the call, several employees had moved between the two companies.
9 On the call, Mr. Jobs expressed concern about employees being hired away from Apple by Palm.
10 As a solution, Mr. Jobs proposed an arrangement between Palm and Apple by which neither
11 company would hire the other's employees, including high tech employees. Mr. Jobs also
12 suggested that if Palm did not agree to such an arrangement, Palm could face lawsuits alleging
13 infringement of Apple's many patents.

14 7. I did not agree to Mr. Jobs's proposal and responded by sending an email on
15 August 24, 2007, a true and correct copy of which is attached hereto as Exhibit A. On August 26,
16 2007, I received a response from Mr. Jobs, a true and correct copy of which is attached hereto as
17 Exhibit B.

18 8. After the above email exchange, I did not communicate further with Mr. Jobs
19 regarding his proposal. Palm continued to hire employees from Apple.

20 The foregoing statements are true, of my own personal knowledge except where otherwise
21 indicated, and if called as a witness I could and would competently so testify. I declare under
22 penalty of perjury under the laws of that the foregoing is true and correct. Executed on

23 Aug 7th, 2012 in Santa Cruz, California.

24
25
26 

27 Edward T. Colligan

EXHIBIT A

> From: Ed Colligan
> Sent: Friday, August 24, 2007 6:30 PM
> To: 'sjobs@apple.com'
> Subject: Your proposal
>
> Steve:
>
> I have thought long and hard about our conversation on Wednesday, and
> I thought it important to let you know my position on the issues we discussed.
> I hope we can resolve our differences, but it has to be on terms that
> are right not only for our respective companies, but for the
> individuals potentially affected. Your proposal that we agree that
> neither company will hire the other's employees, regardless of the

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> individual's desires, is not only wrong, it is likely illegal. I even
> thought about coming back with a proposal about limiting recruitment
> efforts, but frankly, I did not think it was something you would agree to do.
>
> Like you, one of my most important tasks as CEO is to build and retain a first
> class team. I know it's difficult when a respected employee decides to leave
> the company for a new challenge, but, as you said in our call, ³this
> is America² We can't dictate where someone will work, nor should we
> try. I can't deny people who elect to pursue their livelihood at Palm
> the right to do so simply because they now work for Apple, and I wouldn't want you to do that
> to current Palm employees. We can both try to persuade them to stay but, at
> the end of the day, it is their choice, and a choice we should respect.
>
> In our search for the best talent, one thing is always certain -
> experienced people come from somewhere else. Palm doesn't target
> other companies - we look for the best people we can find. I'd hope
> the same could be said about Apple's practices. However, during the
> last year or so, as Apple geared up to compete with Palm in the phone
> space, Apple hired at least 2% of Palm's workforce. To put it in
> perspective, had Palm done the same, we'd have hired 300 folks from Apple. Instead, to my
knowledge, we've hired just three.
>
> Steve, we don't want to hurt Apple. As I said on the phone, Palm is
> focused on building the best team in the industry, and we know there
> is a lot of quality talent outside of Apple. On the other hand, this
> is a small space, and it's inevitable that we will bump into each
> other. Threatening Palm with a patent lawsuit in response to a
> decision by one employee to leave Apple is just out of line. A
> lawsuit would not serve either of our interests, and will not stop
> employees from migrating between our companies. This is a very
> exciting time for both of our companies, and the market is certainly
> big enough for both of us. We should focus on our respective businesses and not create
unnecessary distractions.

>

> That said, I want to be clear that we are not intimidated by your threat.

> Palm has a very robust portfolio of patents, having been in the

> handheld and smartphone businesses since the early 90's. In addition,

> Palm now owns the former Siemens mobile patent portfolio, most

> recently held by BenQ Corporation. This mobile computing and

> communications portfolio includes over 1500 patent assets, the

> majority filed in Europe. If you choose the litigation route, we can

> respond with our own claims based on these patent assets, but I don't

> think litigation is the answer. We will both just end up paying a lot of lawyers a lot of money.

>

> Finally, while you didn't raise the concern in our call, I want to

> reassure you that Palm is not interested in getting or using

> confidential Apple information. We inform new employees of their

> responsibilities to their former employers and will continue to do so.

> Of course, we expect Apple to do the same.

>

> I remain willing to discuss a reasonable resolution that is

> responsible to our respective employees and that is fair to both companies.

>

> Sincerely,

>

> Ed

>

>

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EXHIBIT B

REDACTED

From: "Steve Jobs" <sjobs@apple.com>
Subject: Fwd: Your proposal
Date: Sun 8/26/2007 11:42 am
Size: 4K
To: "Ed.Colligan@palm.com" <Ed.Colligan@palm.com>
Cc: "Steve Jobs" <sjobs@apple.com>

Ed,

This is not satisfactory to Apple.

It is not just a matter of our employees deciding they want to join Palm. They are being actively recruited using knowledge supplied by Jon Rubenstein and Fred Anderson, with Jon personally participating in the recruiting process. We must do whatever we can to stop this. I'm sure you realize the asymmetry in the financial resources of our respective companies when you say: "We will both just end up paying a lot of lawyers a lot of money."

Just for the record, when Siemens sold their handset business to BenQ they didn't sell them their essential patents but rather just gave them a license. The patents they did sell to BenQ are not that great. We looked at them ourselves when they were for sale. I guess you guys felt differently and bought them. We are not concerned about them at all. My advice is to take a look at our patent portfolio before you make a final decision here.

Steve

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